

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ben Gilmore	Team: Squad #9	CCRB Case #: 201509727	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 11/13/2015 10:30 AM	Location of Incident: West 5th Street and Surf Avenue	Precinct: 60	18 Mo. SOL 5/13/2017	EO SOL 5/13/2017	
Date/Time CV Reported Mon, 11/16/2015 7:59 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/16/2015 7:59 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Mckiski	14969	951990	060 PCT
2. POF Alena Aminova	12222	946745	60 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Mckiski	Abuse: PO Jonathan Mckiski stopped § 87(2)(b)	
B.POF Alena Aminova	Abuse: PO Alena Aminova stopped § 87(2)(b)	
C.POF Alena Aminova	Abuse: PO Alena Aminova searched § 87(2)(b)	
D.POF Alena Aminova	Abuse: PO Alena Aminova searched the backpack of § 87(2)(b)	
E.POF Alena Aminova	Abuse: PO Alena Aminova threatened to arrest § 87(2)(b)	
F.POM Jonathan Mckiski	Abuse: PO Jonathan Mckiski issued a summons to § 87(2)(b)	

## Case Summary

On November 16, 2015, § 87(2)(b) filed this complaint with the CCRB via telephone on behalf of her § 87(2)(b) old son, § 87(2)(b). § 87(2)(b) did not witness the incident, and there is no video footage of this incident.

On November 13, 2015, at approximately 10:16 a.m. the 63<sup>rd</sup> Precinct Detective Squad made a call over the radio that they were looking for a perpetrator of a robbery which had occurred on a prior date, and that it was not a gun run (Board Review 01). The 63<sup>rd</sup> Precinct Detective Squad indicated that the perpetrator was last seen at § 87(2)(b) in Brooklyn about five minutes prior, but the direction of flight was unknown.

The 63<sup>rd</sup> Precinct Detective Squad provided the following description of the wanted perpetrator: a black male, 16 years old, 5'10" tall, wearing a green sweatshirt, and had a sling on his right hand. Central Communications repeated that the 63<sup>rd</sup> Precinct Detective Squad was looking for a black male, 5'10" tall, wearing a green sweater, with a sling on his right arm (Board Review 02).

Around this time, § 87(2)(b) walked with a group of three to ten other § 87(2)(b) in Brooklyn, a distance of about § 87(2)(b). § 87(2)(b) a § 87(2)(b) old black male who stands between 5'2" and 5'5" tall (based on differing reports), was not wearing a sling or a green sweatshirt.

At approximately 10:26 a.m. PO Alena Aminova and PO Jonathan McKiski, both from the 60<sup>th</sup> Precinct, were together in a marked RMP when they observed § 87(2)(b) inside of Asser Levy Park and decided to stop him (**Allegations A and B**). PO McKiski exited the RMP and pursued § 87(2)(b) on foot as § 87(2)(b) ran across Surf Avenue, near the intersection of Surf Avenue and West 5<sup>th</sup> Street. PO Aminova drove the RMP to the intersection of Surf Avenue and West 5<sup>th</sup> Street where PO McKiski had § 87(2)(b) stopped. PO McKiski placed § 87(2)(b) in handcuffs.

PO Aminova searched inside the pockets of § 87(2)(b) clothing (**Allegation C**). PO Aminova then searched inside § 87(2)(b) backpack (**Allegation D**). Both searches yielded negative results for any illicit items. § 87(2)(b) alleged that PO Aminova told him that the next time she sees him run away from the police she was going to arrest him (**Allegation E**). § 87(2)(b) alleged that PO Gabriel Keinig, who was then a NYPD Cadet, made a reference to Ferguson, Missouri which § 87(2)(b) found to be offensive. Because PO Keinig was a cadet during the time of the incident, a spin-off to IAB was generated regarding the alleged offensive language.

Members of the 63<sup>rd</sup> Precinct Detective Squad arrived on scene and indicated that § 87(2)(b) was not the wanted perpetrator. PO McKiski issued § 87(2)(b) a summons for disorderly conduct – violent and threatening behavior (**Allegation F**) (Board Review 03). § 87(2)(b) was not arrested, and he was released from the scene with the aforementioned summons.

This case was originally assigned to Eshwarie Mahadeo. It was reassigned to Investigator Ben Gilmore on December 9, 2015, following Ms. Mahadeo's transfer to the CCRB Outreach Unit.

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) was offered mediation during his in-person interview with the CCRB on November 18, 2015, but § 87(2)(b) rejected it, § 87(2)(b)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- The New York City Comptroller's Office indicated that neither § 87(2)(b) nor § 87(2)(b) filed a Notice of Claim regarding this incident (Board Review 05).

### **Civilian and Officer CCRB Histories**

- This is the first complaint § 87(2)(b) has filed with the CCRB (Board Review 06).
- This is the first CCRB complaint in which § 87(2)(b) is involved (Board Review 07).
- PO Jonathan McKiski has been a member of service for four years. There are five previous CCRB allegations made against him, none of which were substantiated.
- PO Alena Aminova has been a member of service for seven years. There are seven previous CCRB allegations made against her, none of which were substantiated.

### **Findings and Recommendations**

#### **Allegations not pleaded**

- Abuse of Authority: A frisk allegation was not pleaded against PO McKiski. Although PO McKiski testified that he frisked § 87(2)(b) after stopping him (Board Review 08), § 87(2)(b) did not allege that PO McKiski frisked him (Board Review 09). § 87(2)(g)
- Abuse of Authority: A frisk allegation was not pleaded against PO Aminova. Although PO Aminova testified that she frisked § 87(2)(b) before searching him (Board Review 10), § 87(2)(b) did not allege that PO Aminova frisked him. § 87(2)(g)

#### **Allegation A –Abuse of Authority: PO Jonathan McKiski stopped § 87(2)(b)**

#### **Allegation B – Abuse of Authority: PO Alena Aminova stopped § 87(2)(b)**

It is undisputed that PO McKiski and PO Aminova stopped § 87(2)(b) in the vicinity of Asser Levy Park in Brooklyn. It is further undisputed that after PO McKiski and PO Aminova determined to stop § 87(2)(b) PO McKiski chased § 87(2)(b) on foot across Surf Avenue, eventually stopping § 87(2)(b) on the south side of Surf Avenue. Both PO McKiski and PO Aminova testified that the reason § 87(2)(b) was stopped was because he matched the description of a perpetrator of a robbery.

The description of the perpetrator of the robbery was provided via radio by the 63<sup>rd</sup> Precinct Detective Squad approximately 10 minutes before the stop (Board Review 01). The 63<sup>rd</sup> Precinct Detective Squad indicated that the wanted perpetrator was last seen at § 87(2)(b) approximately five minutes prior, and that the direction of flight was unknown.

§ 87(2)(b)





§ 87(2)(g)

§ 87(2)(g)

**Allegation F – Abuse of Authority: PO Jonathan McKiski issued a summons to § 87(2)(b)**

It is undisputed that PO McKiski issued a summons to § 87(2)(b) for disorderly conduct: violent and threatening behavior. It is further undisputed that the disorderly conduct refers exclusively to PO McKiski's reported observation of § 87(2)(b) running across Surf Avenue, causing cars to stop short and swerve.

§ 87(2)(b) testified that he was playing a game of "tag" with several of his friends inside of Asser Levy Park and that he ran across Surf Avenue as he was playing the game. This was corroborated by § 87(2)(b) and § 87(2)(b) § 87(2)(b)

PO McKiski and PO Aminova both testified that § 87(2)(b) ran across Surf Avenue in response to seeing them, § 87(2)(g) PO McKiski testified that he exited the RMP and walked approximately 35 feet towards § 87(2)(b) and when he got within 15 feet of him, § 87(2)(b) made eye contact with him and ran from him. PO Aminova testified that § 87(2)(b) looked at the RMP as it approached the entrance of the park and that § 87(2)(b) began to run, before PO McKiski exited the RMP.

Both § 87(2)(b) and § 87(2)(b) testified that there was no traffic on Surf Avenue when § 87(2)(b) crossed and that § 87(2)(b) did not block traffic or anything to that effect.

PO McKiski testified that when § 87(2)(b) ran across Surf Avenue he caused several cars to stop short and swerve to avoid hitting him. PO Aminova testified that she did not see this because she was driving the RMP around Asser Levy Park and lost sight of § 87(2)(b) for approximately 30 seconds.

§ 87(2)(b) testified that after crossing Surf Avenue he noticed PO McKiski following him and that he stopped on his own power. PO McKiski corroborated that § 87(2)(b) stopped on his own power after running across Surf Avenue.

The narrative portion of the summons which PO McKiski issued to § 87(2)(b) does not mention traffic or vehicles. PO McKiski testified that the narrative portion did not include

New York State Penal Law 240.20(1) indicates that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he engages in fighting or in violent, tumultuous or threatening behavior (Board Review 19).

Squad:

Squad Leader: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_

Title/Signature                  Print                  Date